

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

GREGORY YOUNG, ODETTA YOUNG, EDWARD HUYER and CONNIE HUYER, on behalf of themselves and all others similarly situated,

Plaintiffs,

VS.

**WELLS FARGO & CO. and WELLS
FARGO BANK, N.A.,**

Defendants.

Case no.: 4:08-cv-507-RP-CFB

**PLAINTIFFS' EXPEDITED MOTION
TO COMPEL DEPOSITIONS**

(ORAL ARGUMENT REQUESTED)

**(EXPEDITED RELIEF SOUGHT
PURSUANT TO L.R. 7(j))**

COME NOW, Plaintiffs, by and through their undersigned attorneys, and for their Expedited Motion, pursuant to Rules 26, 30 and 37(a) of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”) and Rules 7 and 37 of the Local Rules of the United States District Courts for the Northern and Southern District of Iowa (“L.R.”), for an Order compelling the deposition of Sherilee Massier on August 9, 2011 and the deposition of Keith Schares on August 10, 2011, state:

1. Pursuant to L.R. 37(a) and as set forth in the accompanying Declaration of Deborah Clark-Weintraub, dated July 28, 2011, filed herewith, together with its Exhibits and incorporated herein by reference, counsel for Plaintiffs, in good faith, have conferred personally with counsel for Defendants, in an attempt to resolve or narrow by agreement the issues raised by Plaintiffs' instant Expedited Motion to compel. The lawyers have been unable to reach an agreement with respect to the scheduling of two depositions that are the subject of the instant Motion. Namely, Plaintiffs noticed the depositions of Sherilee Massier and Keith Schares on

June 8, 2011 setting those depositions for July 14 and 15, 2011, respectively. Defendants delayed for weeks in informing Plaintiffs as to whether Massier and Schares would be available on the noticed dates and also delayed in providing alternative dates for their depositions once they declined to produce them on the original dates.

2. After weeks of delays, Plaintiffs re-noticed the deposition for August 9 and 10, 2011. Plaintiffs later offered to move the depositions to August 1 and 2 to accommodate Defendants. However, Defendants are refusing to produce the witnesses on any of the dates proposed by Plaintiffs and have proposed that the depositions be held on either August 17, 18 or 19, 2011 or the latter part of the week of August 22, 2011. However, the delay of these depositions to the third or fourth week of August is unjustifiable given that it should not take seven weeks to schedule two depositions. In addition, such a delay is highly prejudicial to Plaintiffs because Plaintiffs would be extremely burdened by having to take the depositions of Massier and Schares in the last weeks of August when their motion for class certification is due less than two weeks later.

3. Accordingly, Plaintiffs respectfully request the Court to compel Defendants to produce Sherilee Massier and Keith Schares on the dates provided in Plaintiffs' properly served revised deposition notices: August 9 and 10, 2011, respectively.

4. Defendants do not consent to Plaintiffs' instant Motion to compel.

5. Plaintiffs request oral argument.

WHEREFORE, Plaintiffs respectfully request this Court to issue an Order granting Plaintiffs' Expedited Motion pursuant to Rules 30 and 37 of the Federal Rules of Civil Procedure and Rules 7 and 37 of the Local Rules of the United States District Courts for the Northern and Southern District of Iowa, compelling the deposition of Sherilee Massier on August 9, 2011 and

the deposition of Keith Schares on August 10, 2011, and providing such other and further relief as the Court deems just, proper and equitable.

Dated: July 28, 2011

WHATLEY DRAKE & KALLAS, LLC

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing to be served via email and the through the court's CM/ECF electronic filing system on July 28, 2011.

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